UNITED STATES OF AMERICA BEFORE THE NATIONAL LABOR RELATIONS BOARD SUBREGION 33

ANCHOR-HARVEY COMPONENTS, LLC

Employer-Petitioner

and Case 33-RM-373

INTERNATIONAL UNION, UNITED AUTOMOBILE, AEROSPACE AND AGRICULTURAL IMPLEMENT WORKERS OF AMERICA AND ITS LOCAL 2127

Union

REGIONAL DIRECTOR'S SUPPLEMENTAL DECISION ON CHALLENGED BALLOTS, ORDER DIRECTING HEARING AND NOTICE OF HEARING

This report contains the Regional Director's conclusion that the challenges to the ballots of 106 individuals raise substantial and material questions of fact that can best be resolved by a hearing.

PROCEDURAL HISTORY

The petition in this matter was filed on August 22, 2005. Pursuant to a Regional Director's Decision and Direction of Election issued April 5, 2006, an election was conducted on May 3, 2006, among employees of the Employer-Petitioner in the following-described appropriate collective bargaining unit:

All full-time and regular part-time production and maintenance employees employed by the Employer at its Freeport, IL facility, EXCLUDING all office, clerical and professional employees, guards and supervisors as defined in the National Labor Relations Act.

The ballots were impounded and no tally of ballots issued because of the pendency of an unfair labor practice charge filed in Case 33-CA-15021. Subsequent to the approval of a

unilateral settlement agreement and the dismissal of Case 33-CA-15021, the impounded ballots were opened and a tally of ballots, followed by a corrected tally of ballots, issued on November 19, 2007.

The corrected tally of ballots made available to the parties at the conclusion of the election discloses the following results:

Approximate number of eligible voters	112
Void ballots	0
Votes cast for Union.	0
Votes cast against participating labor organization	0
Valid votes counted	0
Challenged ballots	106
Valid votes counted plus challenged ballots	106

Challenges are sufficient in number to affect the results of the election.

No objections to conduct of the election or to conduct affecting the result of the election were filed by either party.

Pursuant to Section 102.69 of the Board's Rules and Regulations, Series 8, as amended, the Regional Director caused an investigation to be made of the challenged ballots and has concluded that the challenges raise substantial and material questions of fact that are best resolved by hearing.

BACKGROUND

The Employer-Petitioner is an Illinois corporation with a principal office and place of business at 600 West Lamm Road, Freeport, IL where it is engaged in the operation of an aluminum and brass forging business. On October 2, 2003, bargaining unit employees commenced a strike. In October, 2003, the Employer-Petitioner hired replacement workers for striking bargaining unit employees. On December 29, 2003, the Union made an unconditional offer to return to work on behalf of the striking employees.

On or about January 7, 2004, the Employer-Petitioner locked out the former striking employees. The lockout continues to date. Prior to the commencement of the strike, there were approximately 79 bargaining unit employees.

THE CHALLENGED BALLOTS

The ballots of all 106 individuals voting in the election were challenged. The names of the voters, the parties who made the challenges, and the basis for the challenges are set forth in appendices described below.

Fifty-three individuals were challenged by the Employer-Petitioner on the basis of job abandonment. Forty-five of this same group were challenged by the Board agent conducting the election on the grounds that their names did not appear on the *Excelsior* list of eligible voters. (See Appendix 1) The Union denies that these individuals have abandoned their jobs and asserts they were unlawfully locked out and remain active in the labor dispute.

A total of forty-seven individuals were challenged by the Union on the grounds that they were not permanent replacements. (See Appendix 2) In addition, the Union challenged eleven of these forty-seven individuals on alternative grounds. In this regard, the Union challenged Carlos Villegas and Joshua Saldecki on the additional ground that they were supervisors. It challenged William Norris and John Geisler on the additional basis that they were hired after the lockout began. Finally, the Union alternatively challenged Dustin Peterson, Donna Brown, Zelda Peak, Angela Barnhart, Oscar Picon, Sharene Hamilton and Michael Uhlig on the basis that they were not employed in bargaining unit jobs. The Employer-Petitioner maintains that Villegas and Saldecki are employed in production jobs included in the bargaining unit and do not possess nor

exercise supervisory indicia. The Employer-Petitioner contends that Norris and Geisler were hired as a flood welder and electrical technician, respectively, after the onset of the strike. The Employer-Petitioner contends that these are positions did not exist prior to the strike but fall within the scope of the bargaining unit and that, therefore, Norris and Geisler are eligible to vote. The Employer-Petitioner contends that Peterson, Brown, Peak, Barnhart, Picon, Hamilton and Uhlig are employed in either inspector or heat treat positions, which are recognized bargaining unit positions, and are therefore eligible to vote

Connie Gasmund was challenged by the Board agent because her name was not on the *Excelsior* list and was included in the group of individuals listed on Appendix 2 and challenged by the Union on the grounds that she was not a permanent replacement. The Employer-Petitioner agrees with the Union's assertion that Gasmund is not a permanent replacement.

Six individuals were challenged by the Board agent conducting the election on the grounds that their names did not appear on the *Excelsior* list of eligible voters (See Appendix 3). The Employer-Petitioner and the Union are in agreement that these individuals are not eligible voters.

CONCLUSION AND ORDER

Having concluded that the aforementioned challenges to the ballots of 106 individuals raise substantial and material questions of fact that best can be resolved by a hearing,

IT IS HEREBY ORDERED, pursuant to Section 102.69 of the Board's Rules and Regulations, Series 8, as amended, that a hearing be held for the purpose of receiving

testimony and other relevant evidence bearing on the issues identified above as to the challenges to the ballots of the aforementioned voters.

IT IS FURTHER ORDERED that the hearing officer designated for the purpose of conducting the hearing shall prepare and cause to be served upon the parties a report containing resolutions of the credibility of the witnesses, findings of fact, and recommendations to the Board as to the disposition of said issues.

IT IS FURTHER ORDERED that thereafter, pursuant to Section 102.69(i)(1) of the Board's Rules and Regulations, the case shall be transferred to and continued before the Board in Washington, D.C., and that the provisions of Section 102.69(f) of the Board's Rules and Regulations shall govern the filing of exceptions, if any, to the hearing officer's report.

NOTICE OF HEARING

PLEASE TAKE NOTICE that on February 5, 2008, at 9 a.m., and consecutive days thereafter until concluded, at the Thomas M. Harvey Hearing Room, 300 Hamilton Blvd., Suite 200, Peoria, Illinois, a hearing will be conducted before a hearing officer to be designated by the Regional Director on the issues raised herein, at which time and place, you will have the right to appear in person or otherwise and give testimony as provided by the National Labor Relations Act.

1/09/08

/s/ Ralph R. Tremain
Ralph R. Tremain, Regional Director
Region 14
National Labor Relations Board
Subregion Thirty-Three
300 Hamilton Square, Suite 200
Peoria, Illinois 61602-1246

APPENDIX 1

Steven Whitehead	Board	Not on List
	Employer	Job abandonment
Gerald Heeren	Board	Not on List
	Employer	Job abandonment
John Hills	Board	Not on List
	Employer	Job abandonment
Melvin Miley	Board	Not on List
3	Employer	Job abandonment
Timothy Aurand	Board	Not on List
ý	Employer	Job abandonment
John Winterhalter	Board	Not on List
	Employer	Job abandonment
Kenneth Ethridge	Board	Not on List
2	Employer	Job abandonment
Steven Martin	Board	Not on List
	Employer	Job abandonment
Kyle Jansen	Board	Not on List
12,100000000000000000000000000000000000	Employer	Job abandonment
Gregg Herrmann	Board	Not on List
Gregg Herrimann	Employer	Job abandonment
John Wool	Board	Not on List
VOIII	Employer	Job abandonment
Stephen Julius	Board	Not on List
Stephen varias	Employer	Job abandonment
John Meighan	Board	Not on List
voim ivieignan	Employer	Job abandonment
Wayne Wilson	Board	Not on List
wayne wheen	Employer	Job abandonment
David Williams	Board	Not on List
Davia Williams	Employer	Job abandonment
Kevin Stake	Board	Not on List
TIC VIII Staire	Employer	Job abandonment
Mike Ruble	Board	Not on List
Time reasts	Employer	Job abandonment
Bradley Giedd	Board	Not on List
Braurey Great	Employer	Job abandonment
William Beal	Board	Not on List
William Bear	Employer	Job abandonment
David Craig	Board	Not on List
= 31.10 5.10.5	Employer	Job abandonment
Tim Parrett	Board	Not on List
	Employer	Job abandonment
Robert Nieman	Board	Not on List
1000it i tioniun	Employer	Job abandonment
	Dilipioyei	300 dodingomiont
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Dewey Meyers	Board	Not on List
	Employer	Job abandonment
Roger Cain	Board	Not on List
Troger cum	Employer	Job abandonment
Allen Meyer	Board	Not on List
	Employer	Job abandonment
Scott Gross	Board	Not on List
	Employer	Job abandonment
Robert Grabow	Board	Not on List
	Employer	Job abandonment
Tad Stubbe	Board	Not on List
	Employer	Job abandonment
Melvin Thomas	Board	Not on List
	Employer	Job abandonment
Orvin Gates	Board	Not on List
	Employer	Job abandonment
Robert Hendrickson	Board	Not on List
	Employer	Job abandonment
David Cross	Board	Not on List
	Employer	Job abandonment
Nellie Endriss	Board	Not on List
	Employer	Job abandonment
Dave McIntire	Board	Not on List
	Employer	Job abandonment
Debra Wierzucki	Board	Not on List
	Employer	Job abandonment
Vicki Anderson	Board	Not on List
	Employer	Job abandonment
Mavis Balsiger	Board	Not on List
	Employer	Job abandonment
Randall Thruman	Board	Not on List
	Employer	Job abandonment
Richard Snyder	Board	Not on List
	Employer	Job abandonment
Charles Garner	Board	Not on List
	Employer	Job abandonment
Shane Johnson	Board	Not on List
I I D .:	Employer	Job abandonment
Joseph Bastian	Board	Not on List
D. I. M. A	Employer	Job abandonment
Darla Martz	Board	Not on List
IZ -: 41. M - 14-	Employer	Job abandonment
Keith Martz	Board	Not on List
John Marierite	Employer	Job abandonment
John Moriarity	Board	Not on List
	Employer	Job abandonment

Steven Bushey	Employer	Job abandonment
Leslie Thomas	Employer	Job abandonment
Michael Steele	Employer	Job abandonment
Daniel Jones	Employer	Job abandonment
Eugene Saxby	Employer	Job abandonment
Dale Schnulle	Employer	Job abandonment
Dale Diddens	Employer	Job abandonment
Roger Garrett	Employer	Job abandonment

APPENDIX 2

Sherry Tyner	Union	Not a permanent replacement
Eunice Brown	Union	Not a permanent replacement
Kerri Hoover	Union	Not a permanent replacement
David Waack	Union	Not a permanent replacement
William Way	Union	Not a permanent replacement
Fred Dempsey, Sr.	Union	Not a permanent replacement
Christopher McCullum	Union	Not a permanent replacement
Thomas Johnson	Union	Not a permanent replacement
Jesus Conchas, Sr.	Union	Not a permanent replacement
Gonzalo Campos	Union	Not a permanent replacement
Larry Outcelt	Union	Not a permanent replacement
Kevin Meyer	Union	Not a permanent replacement
Clay Wesson	Union	Not a permanent replacement
Jonathan Mercer	Union	Not a permanent replacement
Carlos Cornejo	Union	Not a permanent replacement
Alvaro Ramirez	Union	Not a permanent replacement
Michael Bowen	Union	Not a permanent replacement
Mark Haag	Union	Not a permanent replacement
Morayne Dir	Union	Not a permanent replacement
Richard Gage	Union	Not a permanent replacement
Wayne Edgren	Union	Not a permanent replacement
Michael Thomas	Union	Not a permanent replacement
Alfonso Ortiz	Union	Not a permanent replacement
Gerald Sanders	Union	Not a permanent replacement
Jesus Burgos	Union	Not a permanent replacement
Robert Gray	Union	Not a permanent replacement
Mario Maciel	Union	Not a permanent replacement
Derek Heitter	Union	Not a permanent replacement
Rigoberto Conchas	Union	Not a permanent replacement
Marco Marciel	Union	Not a permanent replacement
Isaias Sanchez	Union	Not a permanent replacement
Trent Gaines	Union	Not a permanent replacement
Jose Mata	Union	Not a permanent replacement
Ahmed Al-Sadun	Union	Not a permanent replacement
John Wilkerson	Union	Not a permanent replacement
Carlos Villegas	Union	Not a permanent replacement
		and Supervisor
Joshua Saldecki	Union	Not a permanent replacement
		and Supervisor
William Norris	Union	Not a permanent replacement;
		hired after the lockout
John Geisler	Union	Not a permanent replacement;
		hired after the lockout
Dustin Peterson	Union	Not a permanent replacement;
		not a bargaining unit job

Donna Brown	Union	Not a permanent replacement;
		not a bargaining unit job
Zelda Peak	Union	Not a permanent replacement;
		not a bargaining unit job
Angela Barnhart	Union	Not a permanent replacement;
		not a bargaining unit job
Oscar Picon	Union	Not a permanent replacement;
		not a bargaining unit job
Sharene Hamilton	Union	Not a unit job and not a
		permanent replacement
Michael Uhlig	Union	Not a unit job and not a
		permanent replacement
Connie Gasmund	Board	Not on List
	Union	Not a permanent replacement

APPENDIX 3

Jaime Gomez	Board	Not on List
Roger Rowe	Board	Not on List
Matthew Lestikow	Board	Not on List
Robert Knight	Board	Not on List
Ana M. Cruz	Board	Not on List
Bernard Toman	Board	Not on List